

August 5, 1986

The regular meeting of the Washington State Liquor Control Board was called to order at 9:30 a.m., Tuesday, August 5, 1986, in the Board conference room, fifth floor, Capital Plaza Building, Olympia, by Chairman L. H. Pedersen. Board Members Kazuo Watanabe and Robert D. Hannah were present. Board Secretary Judy Pierce recorded the meeting.

PUBLIC HEARING - PROPOSED RULE CHANGE. Chairman Pedersen announced that this was the date and time scheduled for a continuation of the public hearing to consider and take action concerning the amendment of WAC 314-20-100 "Beer Wholesale Price Posting," WAC 314-20-105 "Beer Supplier's Price Filings, Contracts and Memoranda," WAC 314-24-190 "Wine Wholesale Price Posting," WAC 314-24-200 "Wine Suppliers' Price Filings, Contracts and Memoranda," and WAC 314-52-114 "Advertising by Retail Licensees, Offering for Sale, or Selling Beer, Wine or Spirituous Liquor at Less Than Cost--Prohibited--Exceptions." He noted that the appropriate notices have been filed with the Code Reviser's office and mailed to various news media and interested persons.

John Hennen, Senior Assistant Attorney General, indicated that the hearing had been continued from July 1, 1986, because of a substantial change in the proposed language--adding ten percent to the acquisition cost.

Chairman Pedersen asked if anyone present wished to speak either in favor of or in opposition to the proposed amendments.

Geoff Gibbs, attorney representing the Washington State Food Dealers Association and G. Heileman Brewing Company, spoke to the issue of shipping costs of in-state breweries vs. out-of-state breweries. He indicated that G. Heileman is willing to do whatever is necessary to make any concessions regarding freight charges as they relate to acquisition cost in order to accommodate the out-of-state breweries, should the Board decide to change the definition of acquisition cost.

Hank Sitko, President of the Washington State Food Dealers Association, said the Association supports the Board's proposed amendments.

Robert Seeber, representing the Washington State Restaurant Association, and particularly the A, C, D and H licensees, indicated that they believe the addition of

J. Britt
113
DEP EXHIBIT
CA. 10
NOTARY PUBLIC

Resp to Costco RFP
100

**PLAINTIFF'S
EXHIBIT**

CASE
NO. CV04-0360P

EXHIBIT
NO. 077

ten percent to acquisition cost is unworkable as it relates to on-premise licensees--that in fact it creates more problems for them. He recommended that subsection (b) of WAC 314-52-114 not be repealed, and that cost of doing business be defined as acquisition cost plus the actual cost of doing business. Mr. Seeber questioned the Board's authority regarding this issue, and suggested that a formal Attorney General's opinion be requested to see if defining cost of doing business is consistent with the consumer protection act.

John Hennen said in his opinion the Board has the statutory authority under Title 66 RCW to approve the proposed amendments, or to repeal the entire section if they so desire. He said action on these rule amendments is a policy decision based on what the Board feels is necessary to implement the liquor act.

Linda Christophersen, attorney representing Miller Brewing Company, spoke in opposition to the proposed amendment of WAC's 314-20-100 and 314-20-105. She said they supported acquisition cost as cost of doing business, but feel that adding ten percent is an arbitrary decision which has no firm data to substantiate it. She questioned whether or not there is, in fact, a problem, as well as the constitutionality of the proposed rule changes. Ms. Christophersen urged the Board to take action only after they have carefully articulated the need and have based their decision on hard facts.

Jan Britt, Supervisor - M.I.W. Division, said staff has taken an active role in assessing the need for the proposed rule amendments, and believes there is a need for the changes.

Following additional discussion, Board Member Watanabe moved to adopt the proposed amendments of WAC's 314-20-100, 314-20-105, 314-24-190, 314-24-200 and 314-52-114, and proceed with the necessary rule-making procedures. Board Member Hannah seconded the motion and it carried unanimously. The public hearing ended at 10:05 a.m.

MEETING RECESSED. The meeting was recessed at 10:05 a.m., until the call of the Chair.

MEETING RECONVENED. The meeting was reconvened at 11:33 a.m. by Chairman L. H. Pedersen. Board Members Kazuo Watanabe and Robert D. Hannah were present. Present to confer with the Board were Bob Harvey, Liquor Purchasing Agent, and Ken Cribari and Ben Di Julio representing Guild Wineries and Distilleries.